



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

FEB 14 2014

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL 7009 1680 0000 7677 9807**  
**RETURN RECEIPT REQUESTED**

Mr. Thomas J. Braier  
President  
Aura II  
8035 West Calumet Road  
Milwaukee, Wisconsin 53223

Re: Notice of Violation  
RCRA Compliance Evaluation Inspection  
Aura II, Milwaukee, Wisconsin  
WIO 000 934 174

Dear Mr. Braier:

On September 11, 2013, representatives of the U.S. Environmental Protection Agency and Wisconsin Department of Natural Resources (WDNR) inspected the Aura II facility, located at 8035 West Calumet Road, Milwaukee, Wisconsin. The purpose of the inspection was to evaluate Aura II's compliance with certain provisions of the Resource Conservation and Recovery Act (RCRA); specifically, those regulations related to the generation of hazardous waste, universal waste, and used oil. We have enclosed a copy of the inspection report for your reference. EPA acknowledges receiving an e-mail from you on October 17, 2013.

Based on information provided by Aura II personnel, a review of records, and personal observations by the inspectors, EPA finds that Aura II violated certain requirements of the Wisconsin Administrative Code (WAC) and the United States Code of Federal Regulations (CFR). We find that Aura II was not in compliance with the following hazardous waste requirements:

1. A person who generates a solid waste, as defined in WAC § NR 661.02, shall determine if that waste is a hazardous waste using methods specified at WAC NR 662.011(1) through (4), which include: determining if the waste is excluded; if the waste is listed; if the waste is a characteristic hazardous waste which may include testing of the waste or applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used; or if the waste is determined to be hazardous, the generator shall refer to WAC Chapters NR 661, 664, 665, 666, and 673 for possible exclusions.

During the records review portion of the inspection Aura II personnel did not have waste analysis determinations for the unlabeled 55-gallon containers near the Cyanide Area, see photographs 24, 25, 26, 27, and 28. In addition, the inspectors observed many 55-gallon containers in the warehouse that should be inventoried as products or waste materials. Aura II, therefore, failed to comply with the above-mentioned generator waste determination requirement. At the time of the inspection, WDNR sampled the 55-gallon containers near the Cyanide Area and found that the drums did contain cyanide. Aura II failed to comply with the waste determination requirements, as required by WAC NR § 662.011(1) through (4) [40 C.F.R. §262.11(a) through (d)].

2. A generator who transports, or offers for transport, a hazardous waste for off-site treatment, storage or disposal, or the owner or operator of a treatment, storage or disposal facility (TSDF) who offers for transport a rejected hazardous waste load, shall prepare a manifest, OMB control number 2050-0039, on EPA Form 8700-22, and if necessary, EPA Form 8700-22A, according to the instructions in the appendix to 40 CFR Part 262. See, WAC § NR 662.020(1) [40 CFR § 262.20(a)(1)]. Specifically, for shipments of hazardous waste outside of Wisconsin, the generator must submit a copy of each manifest to WDNR within 30 days of receiving the signed copy from the designated facility. See, WAC § NR 662.023(3).

During the records review portion of the inspection, the inspectors reviewed out-bound hazardous waste manifests from 2013 to Envirite of Illinois, Inc., Harvey, Illinois (ILD000666206), and EQ Detroit, Inc., Detroit, Michigan (MID980991566). Aura II personnel told the inspectors that copies of the out-of-state TSD manifests were not being sent to WDNR. Aura II failed to comply with the hazardous waste manifest distribution requirement, as required by WAC § NR 662.023(3).

3. In order to avoid the need for a hazardous waste storage license, a large quantity generator must meet certain conditions. See, WAC § NR 662.034(1)(a) through (d). In addition, a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in WAC § NR 661.33(5) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste without complying with sub. (1) provided the generator complies with WAC §§ NR 665.0171, 665.0172, and 665.0173(1) and marks the containers with the words "Hazardous Waste" or with other words that identify the contents of the containers. See, WAC § NR 662.034(3)(1) and (2) [40 CFR § 262.34(c)(1)(i) and (ii)].

During the inspection of the second floor Laboratory, the inspectors observed a 5-gallon satellite accumulation area (SAA) container which was connected to a 55-gallon container on the first floor via flexible tubing, see photographs number 30 and 31. The first floor 55-gallon container should have been categorized as a less than 90 day

accumulation container not another SAA container. Aura II, therefore, failed to comply with the above-mentioned condition for a storage permit exemption.

4. In order to avoid the need for a hazardous waste storage license, a large quantity generator must meet certain conditions. See, WAC § NR 662.034(1)(a) through (d). The generator must comply with the requirements of Subchapters C and D of WAC NR 665, WAC § NR 665.0016 and NR 668.07(1)(e). See, WAC § NR 662.034(1)(d). Specifically, facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this chapter. See, WAC § NR 665.0016(1)(a) [40 CFR § 265.16(a)(1) ]. Facility personnel must take part in an annual review of the initial training required in WAC NR § 665.0016(1). See, WAC § NR 665.0016(3) [40 CFR 265.16(c)].

During the records review portion of the inspection, the inspectors reviewed training records for Mr. Daniel Moody, Mr. Dustin Henley, Mr. Dennis Wroblewski, and Greg Muskin. Mr. Henley did not complete his annual refresher training in 2012. Mr. Wroblewski and Mr. Muskin did not complete their training in 2013. At the time of the inspection, Aura II therefore, failed to comply with WAC § NR 665.0016(1)(a) [40 CFR § 265.16(a)(1)] and WAC § NR 665.0016(3) [40 CFR § 265.16(e)].

5. In order to avoid the need for a hazardous waste storage license, a large quantity generator must meet certain conditions. See, WAC § NR 662.034(1)(a) through (d). The generator must comply with the requirements of Subchapters C and D of WAC NR 665, WAC § NR 665.0016 and NR 668.07(1)(e). See, WAC § NR 662.034(1)(d). Specifically, the owner or operator must have a contingency plan for the facility. See, WAC § NR 665.0051(1) [40 CFR 265.51]. If the owner or operator has already prepared a spill prevention, control and countermeasures (SPCC) plan according to 40 CFR part 112 or 300, or some other emergency or contingency plan, the owner or operator need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this chapter. See, WAC § NR 665.0052(2) [40 CFR § 265.52(b)]. In addition, the plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors and state and local emergency response teams to coordinate emergency services, pursuant to WAC § NR 665.0037. See, WAC § NR 665.0052(3) [40 CFR § 265.52(c)]. Also, the contingency plan must identify at least one employee either on the facility premises or on call with the responsibility for coordinating all emergency response measures. See, WAC § NR 665.055 [40 CFR § 265.55]. The plan must list names, addresses and phone numbers (office and home) of all persons qualified to act as emergency coordinator. See, WAC NR 665.0052(4) [40 CFR 265.52(d)]. The plan must also include a list and location and physical description of emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external) and decontamination equipment), where this equipment is required. See, WAC § NR 665.0052(5) [40 CFR § 265.52(e)]. Also, a copy of the contingency plan and all

revisions to the plan shall be submitted to all local police departments, fire departments, hospitals and state and local emergency response teams that may be called upon to provide emergency services. See, WAC § NR 665.0053(2) [40 CFR § 265.53(b)].

During the records review portion of the inspection, Aura II personnel provided the inspectors with a Contingency Plan dated April 2002. The Contingency Plan identified St. Michael Hospital, 2400 West Villard Avenue, Milwaukee, Wisconsin as providing assistance in the event of an emergency situation, see Section 7. It is our understanding that St. Michael Hospital closed in 2006. The Contingency Plan also lists the telephone number of St. Joseph Hospital on page 2. At the time of the inspection, Aura II therefore, failed to comply with the contingency plan requirements for not amending the Contingency Plan. Aura II therefore, failed to comply with WAC NR Part 665 Subchapter D [40 CFR Part 265 Subchapter D].

6. In order to avoid the need for a hazardous waste storage license, a large quantity generator must meet certain conditions. See, WAC § NR 662.034(1)(a) through (d). Specifically, the owner or operator shall inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors. See, WAC § NR 665.0174 [40 CFR § 265.174]. In addition, the owner or operator must inspect, where present, at least once each operating day the following: overfill or spill control equipment; aboveground portions of the tank system; data gathered from monitoring equipment and leak detection equipment; secondary containment structures and document the inspections in the operating record. See, WAC § NR 665.0195(1) and (3) [40 CFR § 265.195(a)].

During the records review portion of the inspection, Aura II personnel told the inspectors that weekly inspections of the less than 90 day hazardous waste area containers and daily inspections of the hazardous waste tanks were not being done. At the time of the inspection, Aura II, therefore, failed to comply with the weekly inspection requirement as required by WAC § NR 665.0174 [40 CFR § 265.174] and the daily tank system inspections WAC § NR 665.0195(1) and (3) [40 CFR § 265.195(a)].

7. A small quantity handler of universal waste must label or mark each lamp or a container or package in which the lamps are contained must be labeled or marked clearly with the phrase "Universal Waste – Lamps", "Waste Lamps" or "Used Lamps". See, WAC § NR 673.14(5) [40 CRR 273.14(e)]. A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler. However, a small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if this activity is solely for the purpose of accumulation of quantities of universal waste as necessary to facilitate proper recovery, treatment or disposal. A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

The handler may make this determination in several ways: marking or labeling the container with the earliest date; marking or labeling each individual item; maintaining an inventory system; placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste. See, WAC § NR 673.15(1) through (3) [40 CFR § 273.15 (a) through (c)].

During the inspection of the Maintenance Area, the inspectors observed a container labeled "Used Bulbs Universal Waste" and an unmarked container of used fluorescent lamps. During the records review portion of the inspection, the inspector asked where the universal waste lamps were shipped. Aura II personnel told the inspectors that they had never sent any used fluorescent lamps off-site. At the time of the inspection, Aura II failed to comply with the small quantity handler labeling and accumulation requirements, as required by WAC §§ NR 673.14(5) and 673.15(1) through (3) [40 C.F.R. §§ 273.14(e), 273.15(a) through (c)].

8. The Aura II Contingency Plan lists "Waste Cyanide Filters, F008" in Section 4, Hazardous Wastes Generated. During the inspection, the inspectors observed gaylord boxes containing used filters which were being shipped to Xstrata Recycling, San Jose, California (CAD069124717). During the records review portion of the inspection, the inspectors reviewed a Bill of Lading for a July 11, 2012 shipment of "Used Cartridges" to Xstrata Recycling. The inspectors also reviewed a July 19, 2012 letter from Xstrata Recycling to the California Department of Toxic Substances Control Report Depository regarding an unmanifested waste report from Aura II of "Cyanide contaminated gold filters". The unmanifested waste report includes an explanation that Aura II has agreed to ship this waste stream as hazardous waste in the future. WDNR's Hazardous Waste Manifest Report for the period 1/1/2003 to 9/03/2013 does list an off-site shipment of F008 hazardous waste on 6/9/2005 to Micro Metallics Corporation (CAD069124717, Xstrata Recycling), San Jose California. During the warehouse walk-through, the inspectors observed containers labeled "Filters", see photograph number 11, and during the walk-through of the Circuit Board Dismantling area, the inspectors observed used filters in a gaylord box, see photograph number 35. Also, during the inspection of the staging area the inspectors observed a gaylord box of used filters (see photograph number 36) and during the inspection of the Cyanide Area, the inspectors observed a 55-gallon container with used filters, see photograph number 37.

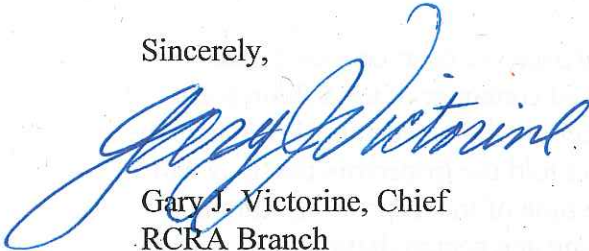
Please provide an explanation on how the used filters are generated, accumulated/stored and sent off-site.

At this time, EPA is not requiring Aura II to apply for a storage license so long as Aura II immediately establishes compliance with the conditions for an exemption outlined above. Under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928, EPA may issue an order assessing a civil penalty for any past or current violation requiring

compliance immediately or within a specified time period. Although this letter is not such an order, we request that Aura II submit a response in writing to this office no later than thirty (30) days after receipt of this letter documenting the actions, if any, which have been taken since the inspection to establish compliance with the above conditions and requirements.

If you have any questions regarding this letter, please contact Walt Francis, of my staff, at (312) 353-4921.

Sincerely,



Gary J. Victorine, Chief  
RCRA Branch

Enclosures

cc: Dolores Hayden, WDNR-Southeast Regional Office  
(dolores.hayden@wisconsin.gov)